

REMARKS/ARGUMENTS

In the Office Action mailed December 18, 2003, claims 2-16, 18-30 and 32-43 were rejected. Applicants have thoroughly reviewed the outstanding Office Action including the Examiner's remarks and the references cited therein. The following remarks are believed to be fully responsive to the Office Action. All the pending claims at issue are believed to be patentable over the cited references.

CLAIM REJECTIONS – 35 U.S.C. § 102(b)

Claims 2-25

The Examiner rejected claims 2-25 under 35 U.S.C. §102(b) as being unpatentable over United States Patent No. 6,658,586 to Levi (hereinafter referred to as "Levi"). In light of the following remarks, Applicants respectfully submit that these claims are allowable.

Initially, Applicants note that it is axiomatic that to qualify as an anticipation under Section 102, the cited reference must "bear within its four corners adequate directions for the practice of the patent invalidated." (See, for example, Dewey & Almay Chemical Co. v. Mimex Co., Inc., 52 U.S.P.Q. 138 (2nd Cir. 1942)). Applicants respectfully submit that Levi embodies no such directions.

More particularly, Applicants respectfully submit that Levi does not disclose all the elements to support a finding of anticipation. The Examiner states in the Office Action that with regard to independent claims 2 and 25, Levi teaches an apparatus detached from the equipment comprising a display device (630, See figure 14); an input device, software executed by the apparatus and a communications device (See Figure 2); and a controller attached to the equipment to enable monitoring of the equipment by the apparatus through the communications

device (Col. 3, lines 38-46), wherein a unique identifier is stored on the controller (Col. 8, lines 33-37).

Applicants note, at the very least, that Levi does not teach or disclose the use of a controller. The controller, in the present invention, is installed in each piece of equipment that is desired to be monitored. For example, a controller is installed into a piece of lab equipment. The controller is then connected via a communications medium to remote computer, which enables the equipment to be monitored on a continuous basis.

A controller in the art of electronics is a hardware device that contains some processing capabilities. The controller in the present application is linked to various operating parameters of the lab equipment. The controller monitors these parameters and reports the data collected to the remote computer.

Levi on the other hand discloses an “agent” that is downloaded on a user’s device. The “agent” is then used to send periodic beacon packets to a monitoring station. An agent, as defined by Levi at column 9, lines 4-19, is a file that is downloadable from a server via a file transfer (FTP) or HTTP and is C++ based operating system. In other words, the agent is compilation of executable code, not a hardware device.

An agent, as disclosed in Levi, is not the same as a controller, as in claimed in the present invention. As a result, Levi does not disclose all the elements to support an anticipation rejection. Applicants, therefore, respectfully request that the rejection be removed and claims 2-25 be allowed to pass to issuance.

Claims 32-38

The Examiner rejected claims 32-38 under 35 U.S.C. §102(b) as being unpatentable over United States Patent No. 5,946,922 to Viard *et al.* (hereinafter referred to as “Viard”). In light of the following remarks, Applicants respectfully submit that these claims are allowable.

Initially, Applicants note that it is axiomatic that to qualify as an anticipation under Section 102, the cited reference must “bear within its four corners adequate directions for the practice of the patent invalidated.” (See, for example, Dewey & Almay Chemical Co. v. Mimex Co., Inc., 52 U.S.P.Q. 138 (2nd Cir. 1942)). Applicants respectfully submit that Viard embodies no such directions.

In light of the amendment to claim 32, Applicants respectfully note that Viard does not disclose the means for determining the status and the storing of a unique identifier on the means for determining the status. Applicants respectfully request that rejection to claims 32-38 be removed and the claims be allowed to pass to issuance.

CLAIM REJECTIONS – 35 U.S.C. § 103(a)

The Examiner rejected claims 26-30 U.S.C. § 103(a) as being obvious over Levi. Additionally, the Examiner rejected claims 39-43 as being obvious Viard.

The Examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. *MPEP* §2142. To establish a prima facie case of obviousness, three criteria must be met. First, there must be some suggestion or motivation, to modify the references or to combine reference teachings. Second, there must be reasonable expectation of success. Finally, the prior art must teach all the claim limitations. *MPEP* §2142. In light of the argument regarding both the Levi and Viard references, the combined references do not teach or suggest all

the claim limitations of the present application. As a result, the obviousness rejection is improper since the independent claims are allowable all claims which depend from them are allowable. Applicants respectfully request that the rejection to claims 26-30 and 39-43 be removed.

CONCLUSION

In view of the foregoing remarks, Applicants respectfully request the objections and rejections be removed. If, for any reason, the Examiner disagrees, please call the undersigned attorney at 202-861-1703 in an effort to resolve any matter still outstanding before issuing another action. The undersigned attorney is confident that any issue which might remain can readily be worked out by telephone.

In the event this paper is not timely filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036 with reference to our Docket No. 87289.1741.

Respectfully submitted,

BAKER & HOSTETLER LLP



Dennis P. Cawley
Reg. No. 44,598

Date: 2/4/04
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304
Telephone: 202-861-1500
Facsimile: 202-861-1783